Office - Supreme Court, U. S.
FILED
APR 20 1955
HAROLD B. WILLEY, Clerk

SUPREME COURT, U.S.

No. 468

In the Supreme Court of the United States

OCTOBER TERM, 1954

ROBERT BELL, PETITIONER

v.

UNITED STATES OF AMERICA

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

BRIEF FOR THE UNITED STATES

SIMON E. SOBELOFF,
Solicitor General,
WARREN OLNEY III,
Assistant Attorney General,
CHARLES F. BARBER,
Special Assistant to the Attorney General,
BEATRICE ROSENBERG,
CARL H. IMLAY,
Attorneys,
Department of Justice, Washington 25, D. C.

INDEX

	Page
Opinion below	1
Jurisdiction	1
Question presented	2
Statute involved	2
Statement	3
Summary of argument	5
Argument:	
The allowable unit of prosecution under the White Slave Traffic Act is the woman induced, supplied with transportation, or transported	11
A. The structure of the Act indicates that a separate criminal liability is incurred as to each "woman or girl" unlawfully transported	16
B. The legislative history of the statute buttresses the conclusion that each "woman or girl" transported constitutes the allowable unit of prosecution	23
C. Decisions concerning the unit of offense under other statutes support the conclusion that each woman or girl transported constitutes the allowable unit of prosecution	28
Conclusion	37
Appendix	38

CITATIONS

Cases:	
Aaron v. *United States*, 188 F. 2d 446	12
Albrecht v. *United States*, 273 U. S. 1	20, 29
Apothecaries Co. v. *Jones*, 1 Q. B. 89, 67 L. T. R. 677	30
Badders v. *United States*, 240 U. S. 391	32
Barnes v. *United States*, 197 F. 2d 271	12
Becker v. *United States*, No. 525, this Term, decided March 7, 1955	18

340113—55—1

Cases—Continued

	Page
Bell v. *United States*, 213 F. 2d 629	15
Bennett v. *United States*, 227 U. S. 333	14
Blockburger v. *United States*, 284 U. S. 299	13, 29, 32
Bonner, In re, 151 U. S. 242	37
Bowker v. *Hunter*, 158 F. 2d 854, certiorari denied, 331 U. S. 861	20
Bozza v. *United States*, 330 U. S. 160	37
Caballero v. *Hudspeth*, 114 F. 2d 545	12
Caminetti v. *United States*, 242 U. S. 470	15
Cleveland v. *United States*, 329 U. S. 14	18, 28
Coamo, The, 267 U. S. 220	35
Crepps v. *Durden*, 2 Cowp. 640	29
Crespo v. *United States*, 151 F. 2d 44, certiorari dismissed, 327 U. S. 758	15, 23
Diggs v. *United States*, 242 U. S. 470	15
Ebeling v. *Morgan*, 237 U. S. 625	9, 30
Ekberg v. *United States*, 167 F. 2d 380	37
First National Bank v. *Missouri*, 263 U. S. 640	17
Gavieres v. *United States*, 220 U. S. 338	13, 29
Gebardi v. *United States*, 287 U. S. 112	17
Gillenwaters v. *Biddle*, 18 F. 2d 206	12, 16
Goto v. *Lane*, 265 U. S. 393	12
Grant Bros. Construction Co. v. *United States*, 232 U. S. 647	9, 26, 34
Henry, In re, 123 U. S. 372	31
Hoke and Economides v. *United States*, 227 U. S. 308	13, 18, 24
Holiday v. *Johnston*, 313 U. S. 342	37
Keller v. *United States*, 213 U. S. 138	25
Mellor v. *United States*, 160 F. 2d 757	15, 16
Miller v. *United States*, 147 F. 2d 372	37
Missouri, Kansas & Texas Ry. Co. v. *United States*, 231 U. S. 112	10, 13, 32
Morgan v. *Devine*, 237 U. S. 632	13, 29
Mortensen v. *United States*, 322 U. S. 369	6, 15, 18
People v. *Cox*, 70 Mich. 247	29
Pereira v. *United States*, 347 U. S. 1	13, 20, 28
Phillips v. *Biddle*, 15 F. 2d 40, certiorari denied, 274 U. S. 735	37
Pinkerton v. *United States*, 328 U. S. 640	29, 37

Cases—Continued

	Page
Reed v. *United States*, 142 F. 2d 435	22
Roark v. *United States* 17 F. 2d 570	20
Robinson v. *United States*, 143 F. 2d 276	16
Sepulveda v. *Squier*, 192 F. 2d 796	35
Sink v. *Cox*, 142 F. 2d 917	12
Snow, In re, 120 U. S. 274	9, 29
St. Clair v. *Hiatt*, 83 F. Supp. 585, affirmed, 177 F. 2d 374, certiorari denied, 339 U. S. 967	15
State v. *Martin*, 23 R. I. 143	30
Sunal v. *Large*, 332 U. S. 174	12
United States v. *Beacon Brass Co.*, 344 U. S. 43	29
United States v. *Bramblett*, No. 159, O. T. 1954, decided April 4, 1955	35
United States v. *St. Clair*, 62 F. Supp. 795	16, 23, 32
United States v. *Universal CIT Credit Corp.*, 344 U. S. 218	10, 13, 33
United States v. *Westman*, 182 Fed. 1017	16
Warner v. *Pescor*, 163 F. 2d 670	37
Wilson v. *Commonwealth*, 119 Ky. 769	29
Wilson v. *United States*, 232 U. S. 563	15

Statutes:

Immigration Act of 1907, 34 Stat. 897, *et seq*:	
Sec. 3, as amended, 8 U. S. C. 1328	25, 41
Sec. 4	26
Sec. 5	26
1 U. S. C. 1	18
White Slave Traffic Act of 1910, 36 Stat. 825, *et seq.*:	
Sec. 2, as amended, 18 U. S. C. 2421	2, 5, 11, 16, 19, 21, 38
Sec. 3, as amended, 18 U. S. C. 2422	14, 17, 19, 20, 39
Sec. 4, as amended, 18 U. S. C. 2423	14, 17, 19, 20, 39
Sec. 6, as amended, 18 U. S. C. 2424	17, 40

Miscellaneous:

82 Cong. Rec. 1828	34
Horack, *The Multiple Consequences of a Single Criminal Act*, 21 Minn. L. Rev. 805	32
H. Rep. 47, 61st Cong., 2d Sess	24, 25, 28
S. Rep. 886, 61st Cong., 2d Sess	24, 25, 28

In the Supreme Court of the United States

OCTOBER TERM, 1954

No. 468

ROBERT BELL, PETITIONER

v.

UNITED STATES OF AMERICA

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

BRIEF FOR THE UNITED STATES

OPINION BELOW

The opinion of the court of appeals (R. 15–17) is reported at 213 F. 2d 629. The opinions of the district court (R. 8–9, 13) are not reported.

JURISDICTION

The judgment of the court of appeals was entered on June 25, 1954 (R. 14–15). The petition for a writ of certiorari was filed on August 26, 1954, and was granted December 6, 1954 (R. 19). The jurisdiction of this Court rests on 28 U. S. C. 1254 (1).

QUESTION PRESENTED

Whether two counts of an indictment, to which petitioner pleaded guilty, each charging a violation of 18 U. S. C. 2421 by the transportation of a different woman "for the purpose of prostitution" on the same date between the same two geographical points, stated two separate offenses.

STATUTE INVOLVED

The case arises under the first paragraph of 18 U. S. C. 2421 (formerly Section 2 of the White Slave Traffic Act of June 25, 1910, 36 Stat. 825), which reads as follows:

> Whoever knowingly transports in interstate or foreign commerce, or in the District of Columbia or in any Territory or Possession of the United States, any woman or girl for the purpose of prostitution or debauchery, or for any other immoral purpose, or with the intent and purpose to induce, entice, or compel such woman or girl to become a prostitute or to give herself up to debauchery, or to engage in any other immoral practice; * * *
>
> Shall be fined not more than $5,000 or imprisoned not more than five years, or both.

The sections of the Criminal Code (18 U. S. C. 2421–2424; 8 U. S. C. 1328) which are based upon the White Slave Traffic Act and the related provision of the Immigration Act of 1907 are set out in their entirety in the Appendix, *infra*, pp. 38–42.

STATEMENT

On April 27, 1953, an indictment in six counts charging violations of the White Slave Traffic Act (18 U. S. C. 2421) was returned against petitioner in the Eastern District of Tennessee. Count One charged that on February 25, 1953, petitioner knowingly and unlawfully transported Normer Tanner Lay from Asheville, North Carolina, to Knoxville, Tennessee, and thence to Chattanooga, Tennessee, for the purpose of prostitution. Count Two similarly charged that on the same day petitioner transported Opal Denmark Miller from the same point of origin to the same destination for the same purpose. Counts Three to Six were based on two other interstate trips, on two different dates, of the same two women. (R. 1–2.)

On April 29, 1953, petitioner was arraigned and pleaded not guilty to all counts of the indictment (R. 5). On April 30, 1953 (R. 2), on the advice of court-appointed counsel, petitioner withdrew his plea of not guilty and entered a plea of guilty as to Counts One and Two. On motion of the United States Attorney, Counts Three to Six were then dismissed (R. 6). The court thereupon sentenced petitioner to consecutive terms of two years and six months on each of the two counts, "making an aggregate sentence of five (5) years" (R. 3).

On August 5, 1953, petitioner filed a Motion to Vacate Sentence on the sole ground that the two

counts to which he had pleaded guilty charged the same offense and could not be made the basis of consecutive sentences (R. 7–8). The district court denied this motion (R. 9–10), setting forth its reasons in a memorandum opinion (R. 8–9).

On August 27, 1953, petitioner filed a Motion for Correction of Sentence, in which he again raised this issue of law and prayed that the sentence on the second count either be set aside or be made to run concurrently with the first (R. 10–11). He supported this motion with an affidavit, in which he stated that after his plea of not guilty he was approached by the Assistant United States Attorney who advised him that if he would plead guilty to the first two counts the remaining counts would be nolle prossed. He stated (R. 12):

> Being reluctant to do this without some assurance that I would receive a lesser sentence than the maximum ten years I declined and was returned to the county jail.

He also stated that in a conversation with a United States Marshal he had been led to believe that if he pleaded guilty to the first two counts his sentences would run concurrently (R. 12). The district court denied the new motion (R. 14), holding that petitioner had been well represented by "a reliable criminal lawyer" and that there was no illegality in the judgment (R. 13).

On appeal from the denial of his Motion to Correct Sentence, the court of appeals unani-

mously affirmed the judgment below (R. 14–15), holding that each count charged a separate offense because (R. 17), "[w]hile the act of transportation was a single one, the unlawful purpose must of necessity have been selective and personal as to each of the women involved," and "[t]he proof of this purpose [as to one woman] would not depend upon proof of a similar purpose with respect to the other woman transported."

SUMMARY OF ARGUMENT

A

The White Slave Traffic Act prohibits, *inter alia,* transportation of "any woman or girl for the purpose of prostitution." The question whether petitioner was lawfully convicted under this statute of two offenses for transporting two women at the same time is solely one of statutory construction. There is no constitutional barrier which would prevent Congress from making the transportation of each woman a separate offense.

All concerned, throughout the history of the Act, have interpreted it to provide separate penalties as to each woman transported. The Government, from the outset, has drawn indictments on this basis. Many such indictments have been before this Court, and in an early case where cumulative sentences were imposed the point was raised before this Court but passed over in the

340113—55——2

opinion, apparently as a point without merit. Four courts of appeals and a district court in a fifth circuit which have since passed specifically on the point have held each woman transported to constitute the allowable unit of prosecution.

The Act speaks throughout in terms of singularity, *e. g.*, transportation of "*any* woman or girl," "compel *her* to give *herself* up to the practice of prostitution," etc. The fact that Congress framed the statute in such terms suggests that it intended that a separate offense should be made out with respect to each woman transported.

Consideration of the nature of the offense makes this clear. The statute does not prohibit transportation as such; transportation is only one element of the crime. The Act is directed at transportation with a plan or purpose of immorality which must be "the dominant motive of such interstate movement." *Mortensen* v. *United States,* 322 U. S. 369, 374. Proof of purpose is by nature personal to the particular woman or girl transported. Proof of intent that girl A should become a prostitute, or of an indiscriminate intent to lead girls into prostitution, would not support a conviction for transportation of girl B. Since proof of purpose is essential to the offense, and since such purpose is personal to each woman transported, it follows that the offense is personal to each woman transported.

This conclusion becomes inescapable when the structure of the Act is further considered. The Act with great particularity proscribes (1) inducing a woman to go from one place to another for purposes of prostitution, (2) procuring transportation for such a woman, or (3) transporting her. Each of these acts as to any specific woman, as petitioner recognizes, constitutes a separate offense. It verges on the bizarre to suggest that the crime of persuading is other than personal to the individual woman or girl persuaded. As to this crime, moreover, Congress has provided a greater penalty where the girl is under the age of eighteen, a legislative command wholly inconsistent with the suggestion that the individual woman is not the unit of prosecution. Similarly, the offense of procuring a railroad ticket or tickets is one which is personal to the woman or girl to be transported. The offense is complete each time a woman or girl is provided with tickets, whether it be the same girl on different occasions or different girls on the same occasion and the measure of the offense is patently the same whether the two girls travel on the same or different trains and whether the tickets have been purchased at the same time or at different times.

Similarly, under the transportation section, involved in the instant case, the woman or girl transported must be considered the unit of the

crime. Petitioner recognizes that the statute is not directed at the business of transporting prostitutes. Since it is not the business which is proscribed, the woman transported must be held the unit of the offense, for one would have to strain hard to suggest that Congress intended that two offenses should be made out where one transported woman A on Friday and woman B on Saturday, or woman A by taxi and woman B by private car, but that only one offense was made out where the procurer improved the efficiency of his operations and moved the two women across the state border at the same time.

B

The legislative history of the White Slave Traffic Act buttresses this conclusion. In the Act, Congress sought, "in so far as it may be possible for Congress to do so, to protect women and girls against this criminal traffic." The statute borrowed heavily from the language of the Immigration Act of 1907, which prohibited the importation of "any alien woman or girl for the purpose of prostitution," and provided that "in every such case" penalties identical to those in the present statute should be imposed. There can hardly be any doubt that Congress in this provision intended that the importation of each alien woman or girl should constitute a separate offense. Similar language in a companion section prohibiting the importation of contract labor has been

held by this Court to provide for separate penalties for each such laborer imported. *Grant Bros. Construction Co.* v. *United States*, 232 U. S. 647, 664.

C

Decisions of this Court dealing with the allowable unit of prosecution under other statutes also support the conclusion that each woman or girl transported is the appropriate unit under the White Slave Traffic Act.

We are not concerned with statutes which prohibit what have been called "continuing offenses," such as cohabitation "with more than one woman" (*In re Snow*, 120 U. S. 274), or the practice of a trade on Sunday or without a license, for petitioner recognizes that the White Slave Traffic Act prohibits separate acts rather than the carrying on of the business of recruiting and distributing women and girls for purposes of prostitution.

The cases which deal with the question whether a statute prohibits separate acts or a course of conduct grouping such acts in one way or another are more relevant. The question in all such cases is one of statutory interpretation. Thus in *Ebeling* v. *Morgan*, 237 U. S. 625, this Court held that, under a statute punishing a person who shall cut "any mail bag," the cutting of six mail bags in the same railroad car at the same time constituted six separate offenses. Similarly, in

construing a statute which made it an offense for any common carrier to require or permit "any employe" to remain on duty for more than sixteen consecutive hours, this Court upheld a judgment imposing separate penalties with respect to each employee kept overtime as a result of the delay of a single train, noting that "as towards the public every overworked man presents a distinct danger, and as towards the employes each case of course is distinct." *Missouri, Kansas & Texas Ry. Co.* v. *United States,* 231 U. S. 112, 119. On the other hand, where a somewhat similar question arose under the Fair Labor Standards Act and the legislative history showed that provisions making each employee the unit of the offense had been deleted from the bill after it was shown that ridiculously heavy sentences would be available in the case of large employers, the Court concluded that the offense made punishable under the Act was a course of conduct. *United States* v. *Universal CIT Credit Corp.,* 344 U. S. 218. There could be no comparable suggestion of ridiculously large penalties in the instant case, of course, for the human being is a person, not divisible indefinitely or at all, and the measure of the heinousness of the offense in every instance would be likely to be directly proportional to the number of girls induced to travel, provided with transportation, or transported for purposes of prostitution.

We agree with petitioner that criminal statutes should be strictly construed, but this does not mean that every criminal statute must be given the narrowest possible meaning in complete disregard of the purpose of the legislature. We reject the suggestion that Congress, in a statute aimed at the destruction of commercial traffic in women which prohibits the transportation of "any woman or girl," failed to make the number of women transported the measure of the offense, whether the women be transported successively or in one vehicle. Common sense urges the conclusion that Congress could not have provided that the efficient commercial operators in this vicious traffic, the procurers who constituted its principal target, should enjoy a favored position under the Act.

ARGUMENT

THE ALLOWABLE UNIT OF PROSECUTION UNDER THE WHITE SLAVE TRAFFIC ACT IS THE WOMAN INDUCED, SUPPLIED WITH TRANSPORTATION, OR TRANSPORTED

The White Slave Traffic Act prohibits, *inter alia,* transportation of "any woman or girl for the purpose of prostitution" and provides a penalty for violation of up to $5,000 fine, five years' imprisonment, or both (*supra,* p. 2). Petitioner pleaded guilty to two counts of an indictment, each count charging the transportation on the same date of a different woman for pur-

poses of prostitution. The trial court imposed an "aggregate sentence of five (5) years," consisting of consecutive sentences of two years six months on each of the two counts (R. 2–3). The question before this Court is whether petitioner was lawfully convicted of two offenses, both women being transported at the same time.[1]

Obviously Congress could make the transportation of each woman for purposes of prostitution a separate offense. Inasmuch as each such offense would contain an element not present in the other—the identity of the woman charged to have

[1] As we pointed out in our Memorandum on the Petition (p. 5), this case has the special infirmity of being a collateral attack. The indictment charges in each of counts one and two that petitioner transported a named woman from North Carolina to Tennessee "on or about February 25, 1953" (R. 1). It does not appear, therefore, on the face of the indictment that the two women were transported "at the same time." *Gillenwaters* v. *Biddle*, 18 F. 2d 206, 208 (C. A. 8). The usual rule is that an indictment purporting to charge a federal offense over which the court has jurisdiction is not vulnerable to collateral attack where it does not affirmatively appear from the face of the indictment that no federal offense is charged. *Aaron* v. *United States*, 188 F. 2d 446 (C. A. 4); *Gillenwaters* v. *Biddle*, *supra*; *Sink* v. *Cox*, 142 F. 2d 917, 918 (C. A. 8). See *Goto* v. *Lane*, 265 U. S. 393; *Sunal* v. *Large*, 332 U. S. 174. In the absence of exceptional circumstances, the rule is applied even where it appears that the indictment is defective, the defendant having waived his right to object by entering a plea of guilty or failing to appeal from his conviction. *Barnes* v. *United States*, 197 F. 2d 271 (C. A. 8); cf. *Caballero* v. *Hudspeth*, 114 F. 2d 545, 547–548 (C. A. 10).

been transported—there would be no constitutional barrier to doing so. *Pereira* v. *United States*, 347 U. S. 1, 9; *Blockburger* v. *United States*, 284 U. S. 299, 305; *Gavieres* v. *United States*, 220 U. S. 338, 342; *Morgan* v. *Devine*, 237 U. S. 632. As this Court said in *Missouri, Kansas & Texas R. Co.* v. *United States*, 231 U. S. 112, 118–119, with respect to the question whether a separate penalty could be assessed for each employee worked more than the statutory maximum number of hours:

> * * * there is nothing to hinder making each consequence a separate cause of action or offence, if by its proper construction the law does so; see *Flemister* v. *United States*, 207 U. S. 372, 375; so that the real question is simply what the statute means.

Thus, the question in the instant case is solely one of determining what Congress has provided should be what this Court has termed "the allowable unit of prosecution." *United States* v. *Universal CIT Credit Corp.*, 344 U. S. 218, 221.

For reasons spelled out below, we think that the White Slave Traffic Act plainly contemplates that the transportation of each woman constitutes a separate offense under the Act. Practically all concerned have so interpreted the Act throughout its history. The point was presented to this Court in *Hoke and Economides* v. *United States*, 227 U. S. 308, the case which established the con-

stitutionality of the Act. Defendants had been convicted under an indictment in three counts, each count alleging the inducing at the same time and place of a different woman. Each defendant was convicted and sentenced to two years' imprisonment on each count, the sentences to run consecutively (*id.*, No. 381, O. T. 1912 (R. 9–11)). On writ of error to this Court, petitioner argued:[2]

> We suggest to the Court that the persuasion of the alleged females, if they were persuaded, occurred at one and the same time and place and therefore constitutes but one offense and the action of the trial Court in treating each count respecting the same transaction as a separate offense, sentencing these defendants to 6 years imprisonment—which is one year in excess of the maximum penalty allowed by the statute—is void.

But the Court did not consider the point worthy of mention in its opinion.[3]

---

[2] No. 381, O. T. 1912, Plaintiff-in-error Hoke's Reply to the Government's Brief, p. 6. Petitioner notes that the Hoke indictment was drawn under the "persuading" sections of the statute (18 U. S. C. 2422, 2423), and suggests that these sections make each act of persuading the measure of the offense (Br. 33, n. 41). We agree, but think it inconceivable that Congress could have intended the unit of offense under these sections to be different from that under Section 2421, which in material respects uses identical language. See pp. 20–21, *infra*.

[3] Cf. *Bennett* v. *United States*, 227 U. S. 333, where the indictment alleged transportation of two women in one count.

As shown by the indictments which have come before this Court, the Government has always assumed that each woman transported constitutes the allowable unit of prosecution.[4] Four courts of appeals and a district court in a fifth circuit which have passed specifically on the point have held that each woman transported constitutes the allowable unit of prosecution. *Bell* v. *United States,* 213 F. 2d 629 (C. A. 6) (R. 15–17); *St. Clair* v. *Hiatt,* 83 F. Supp. 585 (N. D. Ga.), affirmed, 177 F. 2d 374 (C. A. 5), certiorari denied, 339 U. S. 967; *Crespo* v. *United States,*

---

and the proof established that only one of the women was transported for the unlawful purposes charged. On appeal to the Court of Appeals for the Sixth Circuit, Bennett had argued that this constituted a fatal variance between allegations and proof. The court of appeals indicated that the travel of each person should have been charged in a separate count, but held that the variance was not fatal to the conviction because a violation was established "if one person is transported" (194 Fed. 630, 633). This Court dismissed the point as "a contention which has more of technicality than substance" (227 U. S. at 338).

[4] See, *e. g.*, *Wilson* v. *United States*, 232 U. S. 563, Nos. 168, 169, O. T. 1913 (R. 2–10); *Caminetti* v. *United States*, 242 U. S. 470, No. 139, O. T. 1916 (R. 1–3); *Diggs* v. *United States*, 242 U. S. 470, 483; *Mortensen* v. *United States*, 322 U. S. 369, 373, No. 559, O. T. 1943 (R. 1–2). Petitioner correctly points out (Br. 32, n. 40) that indictments have also been drawn naming two women in the same count. While in such cases the defendant would have a right on motion to have the two offenses stated in separate counts, he could not be prejudiced by the form of the indictment since only one sentence could be imposed on conviction of an offense so charged. Cf. *Mellor* v. *United States*, 160 F. 2d 757, 761–762 (C. A. 8).

151 F. 2d 44 (C. A. 1), certiorari dismissed, 327 U. S. 758; *Gillenwaters* v. *Biddle*, 18 F. 2d 206 (C. A. 8); *United States* v. *St. Clair*, 62 F. Supp. 795 (W. D. Va.). There is but one decision[5] to the contrary, *Robinson* v. *United States*, 143 F. 2d 276 (C. A. 10), which we think is clearly wrong. Thus, the long-continued administrative practice and the judicial precedents overwhelmingly support our position that the crime proscribed in the statute is transportation of a woman for purposes of prostitution and that each woman transported makes out a separate offense. As will be seen, a *de novo* consideration of the issue likewise inexorably establishes the validity of this conclusion.

A. THE STRUCTURE OF THE ACT INDICATES THAT A SEPARATE CRIMINAL LIABILITY IS INCURRED AS TO EACH "WOMAN OR GIRL" UNLAWFULLY TRANSPORTED

Section 2421 of the Code (Title 18) makes it unlawful to transport "any woman or girl for the purpose of prostitution" (*infra*, pp. 38–39). It consistently employs phrases of singularity, i. e., "*any* woman or girl"; "*such* woman or girl"; "compel *her* to give *herself* up to the practice of prostitution"; "to give *herself* up to debauchery";

[5] *Mellor* v. *United States*, 160 F. 2d 757 (C. A. 8) and *United States* v. *Westman*, 182 Fed. 1017 (D. Ore.), which petitioner cites as following *Robinson* (Br. 32) are not pertinent. Both of these cases arose on the question of duplicity where an indictment charged the transportation of more than one girl in one count. See p. 15, n. 4, *supra*.

"whereby *any such* woman or girl." Similar phrases of singularity are used throughout the other sections of the White Slave Traffic Act (18 U. S. C. 2422, 2423, 2424, *infra*, pp. 39–41). It is thus abundantly clear that unlawful transportation of one woman makes out a complete offense. But our question is whether like transportation of two women at the same time makes out two offenses. The fact that Congress has chosen to frame the statute as it did suggests that it intended that a separate offense be made out as to each woman transported, for it is clear that the statute is directed with great particularity at the protection of women and girls as separate individuals. The statute outlaws the transportation for prostitution of any woman; the business of transporting women for prostitution is within its scope, but the unit of offense is transportation of a particular woman. "Transportation of *a* woman or girl whether with or without her consent, or causing or aiding it, or furthering it in any of the specified ways, are the acts punished, when done with a purpose which is immoral within the meaning of the law." See *Gebardi* v. *United States*, 287 U. S. 112, 118 (emphasis added).

One must, however, look further into the nature of the offense and the context and history of this provision to buttress the conclusion that the individual woman is the unit of offense for, of course, the employment of a singular pronoun in

a statute does not preclude its application in a plural sense (1 U. S. C. 1), although "obviously this rule [permitting singular words to be read as plural in meaning] is not one to be applied except where it is necessary to carry out the evident intent of the statute." *First National Bank* v. *Missouri,* 263 U. S. 640, 657.

Consideration of the nature of the offense makes it clear that the statute provides that a separate offense is committed as to each woman unlawfully transported. The statute does not prohibit transportation as such. Transportation is only one element of the crime. There must be in addition proof that the transportation was in furtherance of a purpose that the particular "woman or girl" involved should engage in prostitution or other immoral acts. As this Court has said, "guilt under the Mann Act turns on the purpose which motivates the transportation." *Cleveland* v. *United States,* 329 U. S. 14, 20; cf. *Hoke and Economides* v. *United States,* 227 U. S. 308, 322; *Mortensen* v. *United States,* 322 U. S. 369, 374. In short, the Act is not directed primarily at transportation; it is directed at transportation with a plan or purpose of immorality which must be, in each case, "the dominant motive of such interstate movement." *Mortensen* v. *United States, supra* (322 U. S. at 374); see *Becker* v. *United States,* No. 525, this Term, decided March 7, 1955.

The purpose prohibited cannot exist in a vacuum, and is by nature personal to the particular woman or girl transported. Proof of intent that girl A should become a prostitute, or proof of an indiscriminate intent to lead girls into prostitution, would not support a conviction based on transportation of girl B. Indeed, petitioner concedes that proof of an intent that girl B was herself transported for purposes of prostitution would be essential to conviction (Br. 43). Since proof of purpose is essential to the offense, and, since such purpose is personal to each woman transported, the conclusion seems inescapable that the individual woman transported is the unit of the offense.

This becomes abundantly clear when the structure of the Act is considered and the provisions of Section 2421 are viewed in context. In the White Slave Traffic Act, Congress sought with great particularity to protect every woman against this evil traffic at every stage within the reach of its constitutional power. Thus separate provisions of the Act proscribe (1) inducing a woman to go from one place to another for purposes of prostitution (18 U. S. C. 2422, 2423); (2) procuring any ticket or tickets to be used by such a woman in going from one place to another (18 U. S. C. 2421, second paragraph); or (3) transporting her (18 U. S. C. 2421, first paragraph) (see App. pp. 38–41). Each of these acts, as petitioner recognizes (Br. 23), constitutes a separate offense.

E. g., Roark v. *United States*, 17 F. 2d 570 (C. A. 8); *Bowker* v. *Hunter*, 158 F. 2d 854 (C. A. 10), certiorari denied, 331 U. S. 861; cf. *Pereira* v. *United States*, 347 U. S. 1; *Albrecht* v. *United States*, 273 U. S. 1. And consideration of the nature of the offenses of inducing any woman or of procuring tickets for any woman makes it clear that the unit of the offense in each such case is the woman induced or for whom transportation was procured.

Section 2422 (*infra*, p. 39) makes it a crime to persuade or induce "any woman or girl to go from one place to another * * * with the intent and purpose on the part of such person that such woman or girl shall engage in the practice of prostitution. * * *" The crime under this section could hardly be the possessing of the state of mind of inducing. As petitioner recognizes (Br. 33, n. 41), the act of inducing a woman is by nature personal to the woman induced, and the offense is complete and distinct each time a procurer persuades or induces a woman to go from one place to another under the circumstances proscribed. Moreover, in Section 2423 (*infra*, pp. 39–40) Congress has provided double the penalty, *i. e.*, $10,000 or ten years, or both, where the woman or girl induced is under the age of eighteen. The greater penalty is in obvious recognition of the more vulnerable position of the young girl induced to travel with the intent that she be later debauched, and the greater heinous-

ness of the offense. And the fact that Congress has seen fit to provide different penalties according to the age of the victim plainly indicates that the individual woman induced is the unit of the offense.

Similar observations may be made with respect to the offense of procuring or obtaining "any ticket or tickets, or any form of transportation * * * to be used by any woman" in going to any place for the purpose of prostitution (18 U. S. C. 2421, second paragraph, *infra*, pp. 38–39). The offense consists of procuring a railroad ticket or tickets for a particular woman or girl. This provision is not directed at the business of buying tickets for girls who have been unlawfully induced to travel. The offense is complete each time a woman or girl is provided with tickets which she uses for her illicit transportation, whether it be the same girl on different occasions or different girls on the same occasion, and the measure of the offense is patently the same whether the two girls travel on the same train or on different trains and whether the tickets have been purchased at the same time or at different times. Each railroad ticket is necesarily purchased for a single woman to be transported, and that is plainly the measure of the offense.

It thus appears that the offenses of inducing or of procuring tickets for any woman or girl are complete each time a woman or girl is induced to

enter the traffic or supplied with tickets which she uses. This being the case, we think it highly unlikely that a different unit of offense could have been intended for the third step in the process, the transportation itself, because the provision of the statute prohibiting such transportation is in material part identical to the above-discussed provisions of the Act.

The same result follows from a consideration of the various applications of the transportation section of the statute. Petitioner concedes that each separate transportation of the same woman, so long as the requisite purpose exists with respect to each such transportation, makes out a separate offense (Br. 30).[6] This amounts to recognition of the fact that the transportation provision is not directed at the business or course of conduct of transporting prostitutes, for if it was a continuing offense only one violation would be made out as to any one woman, regardless of the extent of the illicit travels. If it is not the business which is proscribed, is it more reasonable to assume that Congress intended the unit of prosecution to be the act of transportation as such or the act of transportation of a woman? We submit that it goes very far to suggest that Congress intended that two offenses should be made out where one transported woman A on Friday and woman B on Saturday, or woman A to Vir-

[6] *E. g.*, *Reed* v. *United States*, 142 F. 2d 435 (C. A. 5).

ginia on Friday and the same woman to Maryland on Saturday, or woman A by taxi and woman B by private car, but that only one offense is made out where the procurer improves the efficiency of his operations and moves the two women across the state border at the same time.[7]

Petitioner relies heavily on the cases which hold that transportation of one woman for more than one of the proscribed purposes, *e. g.*, for (a) prostitution and (b) debauchery, constitutes but one offense (Br. 15, 30, 35, 43). We accept this interpretation of the statute, which in our view emphasizes the fact that the unit of offense is the individual woman or girl transported. It is reasonable to conclude that Congress did not make available two penalties in the case of offenders who, for example, intended that one girl transported for purposes of prostitution should live with her procurer. But it does not follow that the statute should be construed so as to be insensitive to number where more than one woman is involved.

B. THE LEGISLATIVE HISTORY OF THE STATUTE BUTTRESSES THE CONCLUSION THAT EACH "WOMAN OR GIRL" TRANSPORTED CONSTITUTES THE ALLOWABLE UNIT OF PROSECUTION

It is unnecessary to dwell on the repugnance to morals and the public welfare of the white slave traffic. The Senate and House reports which

[7] Cf. *Crespo* v. *United States*, 151 F. 2d 44, 46 (C. A. 1); *United States* v. *St. Clair*, 62 F. Supp. 795, 798 (W. D. Va.).

accompanied the White Slave Traffic Act elaborate this theme.[8] The Secretary of Commerce and Labor is quoted in the reports as stating: "It is highly necessary that the diabolical traffic, which has attained international proportions, should be dealt with in a manner adequate to compass its suppression. No punishment is too severe to inflict upon the procurers in this vile traffic."[9] And the reports declare that "It is the purpose of the proposed laws, insofar as it may be possible for Congress to do so, to protect women and girls against this criminal traffic by providing for the punishment of those engaged in that traffic and by regulations established by the act".[10]

While these general considerations obviously do not determine the point here at issue, they throw considerable light on the reasonableness of petitioner's suggestion that it was the purpose of Congress to limit to one penalty the punishment imposed on the commercial procurer who transports his victims in groups. We think it far more reasonable to assume, as this Court must have assumed when it rejected a comparable contention to the contrary in *Hoke and Economides* v. *United States*, 227 U. S. 308 (*supra*, pp. 13–14), that it

[8] H. Rep. 47, 61st Cong., 2d Sess.; S. Rep. 886, 61st Cong., 2d Sess.

[9] H. Rep. 47, 61st Cong., 2d Sess., p. 12; S. Rep. 886, 61st Cong., 2d Sess., p. 12.

[10] H. Rep. 47, 61st Cong., 2d Sess., p. 11; S. Rep. 886, 61st Cong., 2d Sess., p. 11.

was intended that each woman unlawfully transported should constitute the unit of prosecution.

The White Slave Traffic Act of 1910 borrowed heavily[11] from the Immigration Act of 1907 (34 Stat. 897). Section 3 of the latter Act (34 Stat. 898, see *infra* pp. 41–42) provided, *inter alia:*

> * * * whoever shall, directly or indirectly, import, or attempt to import, into the United States, any alien woman or girl for the purpose of prostitution, or for any other immoral purpose, or whoever shall hold or attempt to hold any alien woman or girl for any such purpose in pursuance of such illegal importation, [or whoever shall keep, maintain, control, support, or harbor in any house or other place, for the purpose of prostitution, or for any other immoral purpose, any alien woman or girl, within three years after she shall have entered the United States,][12] shall, *in every such case,* be deemed guilty of a felony, and on conviction thereof be imprisoned not more than five years and pay a fine of not more than five thousand dollars. * * * [Brackets and italics supplied.]

The similarity of the language of the two prohibitions, insofar as they prohibit certain action with respect to "any * * * woman or girl," will

---

[11] H. Rep. 47, 61st Cong., 2d Sess., pp. 2–6; S. Rep. 886, 61st Cong., 2d Sess., pp. 2–6.

[12] The bracketed portion of the Act was held unconstitutional as regulation of a matter within the police power reserved to the states in *Keller* v. *United States*, 213 U. S. 138.

be noticed. There can hardly be any doubt that Congress in the immigration provision intended that each alien woman or girl imported should constitute a separate offense, for they provided in so many words that the offender "in every such case" should be deemed guilty of an offense. Petitioner argues (Br. 27, n. 30) that "every such case" refers "to each of the several offenses listed in the section (importing, holding, keeping, etc.)" rather than to each female victimized, but this is a strained interpretation of this language.

Petitioner's suggestion is repugnant, not only to the purpose of the legislation, but also to the interpretation which this Court has given to Sections 4 and 5 of the same Act, which contain comparable provisions with respect to the importation of contract labor. Section 4 of the Immigration Act of 1907 made it unlawful "for any person * * * to prepay the transportation or in any way to assist or encourage the importation or migration of any contract laborer," and Section 5 provided that persons violating any provisions of Section 4 "shall forfeit and pay for every such offense the sum of one thousand dollars." Section 5 further gave a right of action to informers and provided that "separate suits may be brought for each alien thus promised labor or service of any kind." (34 Stat. 900.) This Court had no doubt but that Congress intended that each contract laborer imported constituted the unit of prosecution under these provisions. In *Grant Brothers*

Construction Co. v. *United States*, 232 U. S. 647, 664, the Court said:

> Still another contention is that as all the men named in the petition were brought into the United States at one time there was but a single violation of the statute and only one penalty could be recovered. The statute declares that "separate suits may be brought for each alien thus promised labor or service," and this plainly means that a separate penalty shall be assessed in respect of each alien whose migration or importation is knowingly assisted, encouraged or solicited in contravention of the statute. See *Missouri, Kansas & Texas Ry. Co.* v. *United States*, 231 U. S. 112.

While the result was assisted by the reference to "separate suits" for each alien, which appears to have been inserted in aid of the informer actions which were authorized, we think it patent that the reference to "every such offense" in the contract-laborer provision has the same meaning as "every such case" in the prostitution provision. It follows that each woman imported constitutes the allowable unit of prosecution under the prostitution provision as well.

Petitioner bases his argument to the effect that Congress should not be held to have provided separate penalties for each woman unlawfully transported on the fact that it was the transportation which Congress had the power to control

and not the practice of prostitution which lay exclusively within the police powers reserved to the states. Hence, petitioner argues that it was the act of transportation and not the unlawful transportation of a woman that was made an offense under the Act. (Br. 24–26; 40–41.) "But the power of Congress over the instrumentalities of interstate commerce is plenary; it may be used to defeat what are deemed to be immoral practices; and the fact that the means used may have 'the quality of police regulations' is not consequential". *Cleveland* v. *United States*, 329 U. S. 14, 19. Moreover, Congress, contrary to petitioner's suggestion, has said that its purpose was "in so far as it may be possible for Congress to do so, to protect women and girls against this criminal traffic," [13] and this stated purpose would clearly be subverted by an interpretation which failed to provide aggregate penalties as against the commercial violator who moved his victims in groups.

C. DECISIONS CONCERNING THE UNIT OF OFFENSE UNDER OTHER STATUTES SUPPORT THE CONCLUSION THAT EACH WOMAN OR GIRL TRANSPORTED CONSTITUTES THE ALLOWABLE UNIT OF PROSECUTION

We think the appropriate interpretation of the penalty provisions of the White Slave Traffic Act must be found in the provisions of the Act itself, considered together in context and in the light of

[13] H. Rep. 47, 61st Cong., 2d Sess., p. 11; S. Rep. 886, 61st Cong., 2d Sess., p. 11.

the purpose of the legislation. A consideration of the problem of determining the appropriate unit of prosecution as it has arisen under other statutes will, however, throw some light on the question.

We are not concerned with the cases which deal with the identity of offenses where precisely the same transaction violates two statutes: *e. g., Blockburger* v. *United States,* 284 U. S. 299; *Pereira* v. *United States,* 347 U. S. 1; *United States* v. *Beacon Brass Co.,* 344 U. S. 43; *Pinkerton* v. *United States,* 328 U. S. 640; *Albrecht* v. *United States,* 273 U. S. 1; *Morgan* v. *Devine,* 237 U. S. 632; *Gavieres* v. *United States,* 220 U. S. 338. Petitioner's discussion (Br. 17–18; 43–44) of what he calls the "same evidence" test is therefore beside the point. In the instant case if it is held, as we suggest, that the statutory unit of offense is the transportation of one woman or girl for an unlawful purpose, there could be no possible basis for considering a conviction of transporting girl A for prostitution as a bar to a later prosecution for transporting girl B for prostitution, whether or not girls A and B were transported in the same vehicle.

Nor are we concerned with cases dealing with statutes which concededly prohibit what have been called "continuing offenses". *E. g., In re Snow,* 120 U. S. 274 (statute prohibited cohabitation "with more than one woman"); *Crepps* v. *Durden,* 2 Cowp. 640 (practice of a trade on Sunday); *People* v. *Cox,* 70 Mich. 247 (same); *Wil-*

son v. *Commonwealth,* 119 Ky. 769 (practice of a trade without a license); *State* v. *Martin,* 23 R. I. 143 (same); *Apothecaries Co.* v. *Jones,* [1893] 1 Q. B. 89, 67 L. T. R. 677 (same). Petitioner concedes, as he must, that the White Slave Traffic Act prohibits separate acts rather than the carrying on of the business of recruiting and distributing women and girls for purposes of prostitution (Br. 30). The difference between petitioner and the Government results from the fact that petitioner reads the statute as prohibiting each act of transportation for the proscribed purpose, as such, whereas we read the statute as prohibiting each act of transportation of a woman for the proscribed purpose.

The cases which deal with the question whether a statute prohibits separate acts or a course of conduct grouping such acts in one way or another are therefore the relevant ones. In a number of cases, this Court has looked to the policy of the statute before it and held that successive repetitions of the prohibited act, even though they occur as a part of one continuous transaction and however close they may be related in time, constitute separate and distinct offenses. The discussion of this Court in *Ebeling* v. *Morgan,* 237 U. S. 625, is illustrative. There the Court held that, under a statute punishing a person who shall cut "any mail bag," the cutting of six mail bags in the same railroad car at the same time consti-

tuted six separate offenses. This Court said (237 U. S. at 629):

> These words plainly indicate that it was the intention of the lawmakers to protect each and every mail bag from felonious injury and mutilation. Whenever any one mail bag is thus torn, cut or injured, the offense is complete. Although the transaction of cutting the mail bags was in a sense continuous, the complete statutory offense was committed every time a mail bag was cut in the manner described, with the intent charged. The offense as to each separate bag was complete when that bag was cut, irrespective of any attack upon, or mutilation of, any other bag. The words are so plain as to require little discussion or further amplification to ascertain their meaning. The separate counts each charged by its distinctive number the separate bag and each time one of them was cut there was, as we have said, a separate offense committed against the statute. Congress evidently intended to protect the mail in each sack, and to make an attack thereon in the manner described a distinct and separate offense.

The Court accordingly affirmed the cumulative sentences which had been imposed on each of the six counts.

This Court in *In re Henry*, 123 U. S. 372, similarly construed the mail-fraud statute, which punishes the placing of "any letter or packet in

any post-office" in furtherance of a fraudulent scheme, as separately applicable to each letter although in furtherance of the same scheme. See further *Badders* v. *United States*, 240 U. S. 391; *Blockburger* v. *United States*, 284 U. S. 299 (two sales of narcotics to the same person, the payment under the second sale being made simultaneously with the delivery pursuant to the first sale, constitute two offenses under a statute prohibiting "any sale"). But compare cases cited in petitioner's brief, page 21, note 16.

The cases interpreting statutes which prohibit acts which may affect more than one person involve the question whether a separate offense is created as to each such person affected.[14] In *Missouri, Kansas & Texas Ry. Co.* v. *United States*, 231 U. S. 112, the Court had before it a statute making it an offense for any common carrier to require or permit "any employee" to remain on duty more than sixteen consecutive hours, with certain exceptions (34 Stat. 1415, 1416). Penalties had been imposed for each employee kept overtime as a result of the delay of a single train. The Court affirmed the imposition of these separate penalties (231 U. S. at 110):

---

[14] *Cf.* According to the greater weight of authority, multiple consequences of common law crimes against persons may be separately prosecuted. See *United States* v. *St. Clair*, 62 F. Supp. 795, 800–802 (W. D. Va.); Horack, *The Multiple Consequences of a Single Criminal Act*, 21 Minn. L. Rev. 805.

> The statute makes the carrier who permits "any employe" to remain on duty in violation of its terms, liable to a penalty "for each and every violation." The implication of these words cannot be made much plainer by argument. But it may be observed as was said by the Government that as towards the public every overworked man presents a distinct danger, and as towards the employes each case of course is distinct.

In *United States* v. *Universal CIT Credit Corp.*, 344 U. S. 218, the Court considered a somewhat similar question arising under the Fair Labor Standards Act of 1938. That Act provides, *inter alia*, that "every employer shall pay to each of his employees" certain minimum wages, and that any person who willfully violates these provisions shall be subject to certain prescribed penalties (344 U. S. at 219, n. 1). The Court considered, among other things, whether each employee should be considered the allowable unit of prosecution. It noted that this question "cannot be answered merely by a literal reading of the penalizing sections" of the statute (*id.* at 221). The Court therefore turned to the legislative history and found that the original bill had contained a provision making each employee the unit of criminal offense, but that this provision had been deleted pursuant to an amendment offered by a member of the House who pointed out that, if "each employee" were the unit of offense, the Ford Motor

Co. and every officer and employee of the company who participated in the action would be subject "to imprisonment for a term of 40,000 years and to a fine of $40,000,000" (82 Cong. Rec. 1828, see 344 U. S. at 223, n. 7). In the light of this history, the Court concluded that the "offense made punishable under the Fair Labor Standards Act is a course of conduct," and that the statute "compendiously treats as one offense all violations that arise from that singleness of thought, purpose or action, which may be deemed a single 'impulse'" (344 U. S. at 224). The considerations which commanded this conclusion, of course, are not present in the instant case. The history of the White Slave Traffic Act, as we have shown, indicates that Congress was concerned with protecting each and every woman from the vicious traffic. Nor could there be any suggestion of the possibility of ridiculously large penalties under the White Slave Traffic Act, for the human being is a person, not divisible indefinitely or at all, and the measure of the offense in every instance would be likely to be directly proportional to the number of women or girls induced to travel, provided with transportation, or transported.

Indeed, we think that this last consideration is of overwhelming persuasiveness. It is significant, moreover, that where this Court had before it a statute prohibiting the importation of persons it held that each person imported in violation of the statute made out a separate offense. *Grant Bros.*

Construction Co. v. *United States*, 232 U. S. 647 (importation of "any contract laborer," see pp. 26–27, *supra*). Accord: *Sepulveda* v. *Squier*, 192 F. 2d 796 (C. A. 9) (importing "any alien not duly admitted by an immigrant inspector"); cases cited pp. 15–16 *supra* (transporting "any woman or girl" for purposes of prostitution); cf. *The Coamo*, 267 U. S. 220. We have also noted that when, shortly after enactment of the White Slave Traffic Act, a person who had been sentenced to three consecutive terms for persuading three women at the same time raised the point urged by petitioner here, this Court considered it to be so without merit as not even to warrant discussion. *Supra*, pp. 13–14.

We agree with petitioner that criminal statutes should be strictly construed. But, as this Court has recently said, "this does not mean that every criminal statute must be given the narrowest possible meaning in complete disregard of the purpose of the legislature." [15] We reject the suggestion urged by petitioner that Congress, in a statute aimed at the destruction of commercial traffic in women which prohibits the transportation of "any woman or girl," failed to make the number of women transported the measure of the offense, whether they be transported successively or in one vehicle. Common sense, together

---

[15] *United States* v. *Bramblett*, No. 159, O. T. 1954, decided April 4, 1955.

with reason and a study of the relevant precedents, urges the conclusion that Congress could not have provided that the efficient commercial operators in this vicious traffic, the principal targets of this legislation, should enjoy a favored position under the Act.

CONCLUSION

For the foregoing reasons, the judgment of the court of appeals denying petitioner's motion for correction of sentence should be affirmed.[16]

Respectfully submitted,

SIMON E. SOBELOFF,
Solicitor General.
WARREN OLNEY III,
Assistant Attorney General.
CHARLES F. BARBER,
Special Assistant to the Attorney General.
BEATRICE ROSENBERG,
CARL H. IMLAY,
Attorneys.

APRIL 1955.

---

[16] If the Court should decide that the two counts of the indictment charge only one offense, the case should be remanded to the district court for "resentence in conformity to the statute." See *Holiday* v. *Johnston*, 313 U. S. 342, 349. While the question is not raised in this proceeding, it may be appropriate to state that we reserve the right to suggest on such a remand that the trial court is free, in disposing of petitioner's motion, to correct the judgment by striking the separate sentences of two years and six months on each of the two counts, which sentences would have been imposed under mistake of law, so that petitioner would be sentenced under the corrected judgment to "imprisonment for a period of . . . five (5) years" (R. 3). *Phillips* v. *Biddle*, 15 F. 2d 40, 41 (C. A. 8), certiorari denied, 274 U. S. 735; see *Warner* v. *Pescor*, 163 F. 2d 670, 671–672 (C. A. 8). Cf. *In re Bonner*, 151 U. S. 242; *Bozza* v. *United States*, 330 U. S. 160; *Pinkerton* v. *United States*, 328 U. S. 640, 641, n. 1 and cases there cited. Contra: *Ekberg* v. *United States*, 167 F. 2d 380, 388 (C. A. 1); *Miller* v. *United States*, 147 F. 2d 372, 374 (C. A. 2).

APPENDIX

The provisions of the United States Code based on the White Slave Traffic Act of 1910 (36 Stat. 825) and the related provision of the Immigration Act of 1907 (34 Stat. 898) read in full as follows:

TITLE 18

SEC. 2421. *Transportation generally.*

Whoever knowingly transports in interstate or foreign commerce, or in the District of Columbia or in any Territory or Possession of the United States, any woman or girl for the purpose of prostitution or debauchery, or for any other immoral purpose, or with the intent and purpose to induce, entice, or compel such woman or girl to become a prostitute or to give herself up to debauchery, or to engage in any other immoral practice; or

Whoever knowingly procures or obtains any ticket or tickets, or any form of transportation or evidence of the right thereto, to be used by any woman or girl in interstate or foreign commerce, or in the District of Columbia or any Territory or Possession of the United States, in going to any place for the purpose of prostitution or debauchery, or for any other immoral purpose, or with the intent or purpose on the part of such person to induce, entice, or compel her to give herself up to the practice of prostitution, or to give herself up to debauchery, or any other immoral practice, whereby any such woman or girl

shall be transported in interstate or foreign commerce, or in the District of Columbia or any Territory or Possession of the United States—

Shall be fined not more than $5,000 or imprisoned not more than five years, or both.

SEC. 2422. *Coercion or enticement of female.*

Whoever knowingly persuades, induces, entices, or coerces any woman or girl to go from one place to another in interstate or foreign commerce, or in the District of Columbia or in any Territory or Possession of the United States, for the purpose of prostitution or debauchery, or for any other immoral purpose, or with the intent and purpose on the part of such person that such woman or girl shall engage in the practice of prostitution or debauchery, or any other immoral practice, whether with or without her consent, and thereby knowingly causes such woman or girl to go and to be carried or transported as a passenger upon the line or route of any common carrier or carriers in interstate or foreign commerce, or in the District of Columbia or in any Territory or Possession of the United States, shall be fined not more than $5,000 or imprisoned not more than five years, or both.

SEC. 2423. *Coercion or enticement of minor female.*

Whoever knowingly persuades, induces, entices, or coerces any woman or girl who has not attained her eighteenth birthday, to go from one place to another by common carrier, in interstate commerce or within the District of Columbia or any Territory or Possession of the United States, with

intent that she be induced or coerced to engage in prostitution, debauchery or other immoral practice, shall be fined not more than $10,000 or imprisoned not more than ten years, or both.

SEC. 2424. *Filing factual statement about alien female.*

(a) Whoever keeps, maintains, controls, supports, or harbors in any house or place for the purpose of prostitution, or for any other immoral purpose, any alien woman or girl within three years after she has entered the United States from any country, party to the arrangement adopted July 25, 1902, for the suppression of the white-slave traffic, shall file with the Commissioner of Immigration and Naturalization a statement in writing setting forth the name of such alien woman or girl, the place at which she is kept, and all facts as to the date of her entry into the United States, the port through which she entered, her age, nationality, and parentage, and concerning her procuration to come to this country within the knowledge of such person; and

Whoever fails within thirty days after commencing to keep, maintain, control, support, or harbor in any house or place for the purpose of prostitution, or for any other immoral purpose, any alien woman or girl within three years after she has entered the United States from any country, party to the said arrangement for the suppression of the white-slave traffic, to file such statement concerning such alien woman or girl with the Commissioner of Immigration and Naturalization; or

Whoever knowingly and willfully states falsely or fails to disclose in such statement any fact within his knowledge or belief with reference to the age, nationality, or parentage of any such alien woman or girl, or concerning her procuration to come to this country—

Shall be fined not more than $2,000 or imprisoned not more than two years, or both.

(b) In any prosecution brought under this section, if it appears that any such statement required is not on file in the office of the Commissioner of Immigration and Naturalization, the person whose duty it is to file such statement shall be presumed to have failed to file said statement, unless such person or persons shall prove otherwise. No person shall be excused from furnishing the statement, as required by this section, on the ground or for the reason that the statement so required by him, or the information therein contained, might tend to criminate him or subject him to a penalty or forfeiture, but no person shall be prosecuted or subjected to any penalty or forfeiture under any law of the United States for or on account of any transaction, matter, or thing, concerning which he may truthfully report in such statement.

TITLE 8

SEC. 1328. *Importation of alien for immoral purpose.*

The importation into the United States of any alien for the purpose of prostitution, or for any other immoral purpose, is forbidden. Whoever shall, directly or in-

directly, import, or attempt to import into the United States any alien for the purpose of prostitution or for any other immoral purpose, or shall hold or attempt to hold any alien for any such purpose in pursuance of such illegal importation, or shall keep, maintain, control, support, employ, or harbor in any house or other place, for the purpose of prostitution or for any other immoral purpose. any alien, in pursuance of such illegal importation, shall, in every such case, be guilty of a felony and upon conviction thereof shall be punished by a fine of not more than $5,000 and by imprisonment for a term of not more than ten years. The trial and punishment of offenses under this section may be in any district to or into which such alien is brought in pursuance of importation by the person or persons accused, or in any district in which a violation of any of the provisions of this section occurs. In all prosecutions under this section, the testimony of a husband or wife shall be admissible and competent evidence against each other.

U. S. GOVERNMENT PRINTING OFFICE 1933